



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lt. Governor

State of New Mexico
ENVIRONMENT DEPARTMENT
Operations & Infrastructure Division
DRINKING WATER BUREAU
525 Camino de Los Marquez, Suite 4
Santa Fe, New Mexico 87505
Telephone (505)476-8620 Fax (505)476-8656
Toll Free 1-877-654-8720
www.nmenv.state.nm.us/dwb/



DAVID MARTIN
Secretary

RAJ SOLOMON, PE
Deputy Secretary

July 13, 2011

Roger Padilla
Upper Arroyo Hondo MDWCA
PO Box 272
Arroyo Hondo, New Mexico 87513

**RE: SETTLEMENT AGREEMENT AND STIPULATED FINAL ORDER NO. 2011-ACO-013,
Upper Arroyo Hondo MDWCA, PWS# NM3507829**

Mr. Padilla:

Please find attached the executed Settlement Agreement and Stipulated Final Order No. 2011-ACO-013, issued to Upper Arroyo Hondo MDWCA, PWS# NM3507829, under the Environmental Improvement Act, NMSA 1978, § 74-1-10 and the Drinking Water Regulations, 20.7.10 NMAC. Please review the Settlement Agreement and Stipulated Final Order ("Final Order") carefully to understand what actions must be taken to comply with the requirements of the Settlement Agreement.

If you have any questions or need assistance with meeting the requirements of this Final Order, please contact Jeff Pompeo, Enforcement Coordinator at 505-476-8620 or via email at Jeff.Pompeo@state.nm.us.

Sincerely,

Jeff Pompeo,
Enforcement Coordinator

cc. Joe Martinez, Water System Specialist, District II
Jacob Herrera, Technical Services Specialist
Chelo Hall, Region 6, EPA (Electronic)
Electronic File
Central File



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DAVID MARTIN
Secretary

RAJ SOLOMON, PE
Deputy Secretary

CERTIFIED RETURN RECEIPT REQUESTED

7005 1820 0001 5707 8898

May 24, 2011

Roger Padilla
Upper Arroyo Hondo MDWCA
PO Box 272
Arroyo Hondo, New Mexico 87513

**RE: SETTLEMENT AGREEMENT AND STIPULATED FINAL ORDER NO. 2011-ACO-013,
Upper Arroyo Hondo MDWCA, PWS# NM3507829**

Mr. Padilla:

Please find attached Settlement Agreement and Stipulated Final Order No. 2011-ACO-013, issued to Upper Arroyo Hondo MDWCA, PWS# NM3507829, under the Environmental Improvement Act, NMSA 1978, § 74-1-10 and the Drinking Water Regulations, 20.7.10 NMAC. Please review the Settlement Agreement and Stipulated Final Order ("Final Order") carefully to understand what actions must be taken to comply with the requirements of the Settlement Agreement. When finished, sign and date the Settlement Agreement and return to:

Jeff Pompeo, Enforcement Coordinator
New Mexico Environment Department
Drinking Water Bureau
525 Camino de los Marquez, Suite 4
Santa Fe, NM 87505

If you have any questions or need assistance with meeting the requirements of this Final Order, please contact Jeff Pompeo, Enforcement Coordinator at 505-476-8620 or via email at Jeff.Pompeo@state.nm.us.

Sincerely,

Raj Solomon PE, Acting Division Director
Operations & Infrastructure Division

cc. Joe Martinez, Water System Specialist, District II
Jacob Sanders, Technical Services Specialist
Chelo Hall, Region 6, EPA (Electronic)
Electronic File
Central File

STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT

NEW MEXICO ENVIRONMENT DEPARTMENT,
OPERATIONS AND INFRASTRUCTURE
DIVISION,

Complainant,

AO# 2011-ACO-013

v.

Upper Arroyo Hondo MDWCA
PWS# NM3507829

Respondent.

SETTLEMENT AGREEMENT AND STIPULATED FINAL ORDER

The New Mexico Environment Department ("NMED") has alleged that Upper Arroyo Hondo MDWCA ("Respondent") has violated the New Mexico Environmental Improvement Act ("EIA"), NMSA 1978, § 74-1-10, and the Drinking Water Regulations ("DW Regulations"), 20.7.10 NMAC. To avoid litigation, the NMED and Respondent hereby enter into this Settlement Agreement and Stipulated Final Order ("Final Order"), pursuant to Section 20.1.5.600.B NMAC on the terms and conditions specified herein. For purposes of this Final Order, Respondent admits the jurisdictional allegations of this Final Order and consents to the relief specified herein.

FINDINGS

1. The NMED is an executive agency within the government of the State of New Mexico and is charged with administration and enforcement of the EIA and the DW Regulations.
2. Respondent owns and operates a public drinking water system, Upper Arroyo Hondo MDWCA ("System"), located in Taos County, New Mexico.

3. The System is a Community water system as defined by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2, that regularly provides piped drinking water to approximately one hundred ninety eight (198) year round residents and has approximately sixty six (66) service connections to serve these year round residents.

4. Respondent, Upper Arroyo Hondo MDWCA, is a “person” as defined by the EIA, NMSA 1978, § 74-1-3, and 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2.

5. Uranium samples were collected from Respondent’s Well #1 on March 24, 2009, June 10, 2009, September 23, 2009, December 18, 2009, March 17, 2010, May 18, 2010, August 11, 2010, and October 13, 2010. Analysis of the samples resulted in Uranium concentrations of 32 micrograms per liter ($\mu\text{g/L}$), 33 $\mu\text{g/L}$, 21 $\mu\text{g/L}$, 33 $\mu\text{g/L}$, 35 $\mu\text{g/L}$, 36 $\mu\text{g/L}$, 35 $\mu\text{g/L}$, and 31 $\mu\text{g/L}$ respectively.

6. Compliance with the Maximum Contaminant Levels (MCL) for Uranium is determined by a Running Annual Average (RAA) as required by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.26(c)(3)(i).

VIOLATION ONE

7. Respondent is in violation of Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.66(e), *Maximum Contaminant Levels (MCL) for Uranium*, which requires a public water system to not exceed the Uranium MCL of 30 $\mu\text{g/L}$. Respondent exceeded the MCL for Uranium at Well #1 during the first, second, third, and fourth quarter of 2010 with an RAA of 31 $\mu\text{g/L}$, 31 $\mu\text{g/L}$, 35 $\mu\text{g/L}$, and 34 $\mu\text{g/L}$ respectively.

TERMS OF SETTLEMENT

8. By September 30, 2011, submit a proposed corrective action plan to NMED which includes a schedule and identifies steps that will be taken to bring the water system into full

compliance with section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.66(e), *MCL for Uranium*.

9. By September 30, 2012, Respondent shall have completed a final preliminary engineering report (PER) prepared by a professional engineer to determine what options it has available to enable long term compliance with provisions of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141. The PER shall include all options to return to compliance, an estimate of capital costs for each option, and an estimate of the time frame for completing construction, modification, or repair to the System necessary under each option. Respondent shall submit the PER to NMED for review and comments.

10. By May 31, 2014, be in compliance with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.66(e), and provide drinking water with concentrations of Uranium below the MCL of 30 µg/L.

11. By May 31, 2015, have a RAA for Uranium below the MCL of 30 µg/L and be in compliance with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.26(c)(3)(i).

12. Submittals made pursuant the terms of this Final Order shall be sent by standard U.S. mail or certified mail with return receipt requested to the following:

Jeff Pompeo, Enforcement Coordinator
New Mexico Environment Department
Drinking Water Bureau
525 Camino de los Marquez, Suite 4
Santa Fe, NM 87505

13. If Respondent fails to comply with any of the terms of this Final Order, Respondent shall be assessed and shall pay a stipulated civil penalty of \$50.00 per day to the State of New Mexico.

14. Payment(s) shall be by corporate check, certified check, or other guaranteed

negotiable instrument made payable to the State of New Mexico, and shall be sent to the NMED to the following:

Kathy Romero, Financial Manager
New Mexico Environment Department
Drinking Water Bureau
525 Camino de Los Marquez, Suite 4
Santa Fe, New Mexico 87505

15. If Respondent fails to make timely and complete payment(s) under paragraph 13, Respondent shall pay interest on the outstanding balance at the rate established for judgments and decrees under NMSA 1978, § 56-8-4. Respondent shall also be subject to an enforcement action and additional applicable civil penalties for any late payment(s).

16. The NMED retains the right to enforce this Final Order and to pursue any relief authorized by the EIA or other provision of law for any violation not addressed herein. In any judicial action arising from this Final Order, Respondent agrees that the district court for Santa Fe County shall have personal jurisdiction over the Respondent and exclusive jurisdiction over disputes arising under this Final Order, and Respondent waives any right to challenge such jurisdiction in any forum. The laws of New Mexico shall govern the construction and interpretation of this Final Order.

17. Respondent shall assume all costs and liabilities incurred in performing all obligations under this Final Order. NMED, on its own behalf and on behalf of the State of New Mexico, does not assume any liability for Respondent's performance of any obligation under this Final Order.

18. This Final Order shall become effective on the date it is approved and signed by the NMED Secretary.

19. This Final Order shall apply to and be binding upon Respondent and the NMED and

their successors in interest.

20. This Final Order merges all prior written and oral communications and agreements between the NMED and Respondent concerning the subject matter of this Final Order, contains the entire agreement between the Parties, and shall not be modified without the written agreement of the Parties.

21. Each person executing this Final Order represents that he or she has the authority to bind the NMED and Respondent respectively to the terms of this Final Order, and such representation shall be legally sufficient evidence of actual or apparent authority to bind the NMED and Respondent to the terms of this Final Order.

AGREED TO BY:

Operations and Infrastructure Division
New Mexico Environment Department

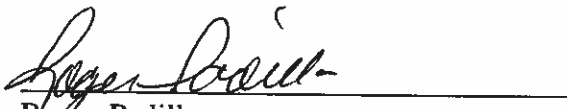


Raj Solomon, P.E.
Acting Director

Date:

6/30/11

Upper Arroyo Hondo MDWCA



Roger Padilla,
Board Member

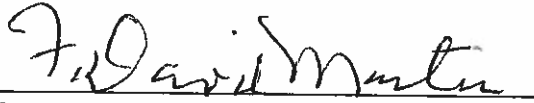
Date:

6-22-11

STIPULATED FINAL ORDER

Pursuant to section 20.1.5.600.B(2) NMAC, this Settlement Agreement and Stipulated Final Order, agreed to by the Upper Arroyo Hondo MDWCA, is hereby incorporated herein and

APPROVED AS A FINAL ORDER pursuant to NMSA 1978, § 74-1-10.



F. David Martin
Secretary
New Mexico Environment Department

7-7-11
Date

Certificate of Service

I hereby certify that a copy of the foregoing Settlement Agreement and Stipulated Final Compliance Order was sent via certified return receipt requested on the following party of record on May____, 2011.

Frances Garcia